IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 259 of 1990

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder?

5 Whether it is to be circulated to the civil judge?

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STATE OF GUJ. - Appellant(s)
Versus
CHHAGANBHAI RUPABHAI BARIYA - Opponent(s)

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Appearance :
MR IM PANDYA, ADDITIONAL PUBLIC PROSECUTOR for the Appellant
MR ASHISH M DAGLI for the Opponent

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 29/03/2006

ORAL JUDGMENT

1. I have heard Mr. I.M.Pandya, learned Additional Public Prosecutor appearing for the State Government and Mr. Chirag Parekh, learned Advocate for Mr.A.M.Dagli, learned Advocate for the respondent original-accused.

2. The respondent was alleged to have consumed liquor without proper permit. A criminal case was therefore, filed against him. The Trial Court however acquitted the respondent of the offences under the Bombay Prohibition Act, finding that there is insufficient evidence. The panch-witnesses have turned hostile, that there was no other independent evidence except blood report of the accused. With respect to the same also, the Trial Court found that the there were procedural defects for collecting blood samples of the accused.

2. Considering all these aspects of the matter, the Trial Court gave benefit of doubt to the respondent-accused. The doctor in his deposition stated that in his opinion the accused had consumed liquor, he was not under the influence of intoxication. Considering all these aspects of the matter, I do not find that this is a fit case for interference in appeal against acquittal. The alleged offence took place in the year 1988. There are no other allegations that the respondent had been convicted in any other similar instances.

3. Considering the totality of the facts and circumstances, I do not find that any interference is

called for in the decision of the Trial Court acquitting the respondent. The appeal is therefore, dismissed.

[Akil Kureshi, J.]

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